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In re Application of
LYE et al.
Serial No.: 10/521,063
PCT No.: PCT/US03/21611
Int. Filing Date: 11 July 2003
Priority Date: 11 July 2002
Attorney's Docket No.: 021764-000720US
For: METHODS AND APPARATUSES FOR
REPAIRING ANEURYSMS

DECISION ON
SUBMISSION OF
DECLARATION

This decision is responsive to Applicant's "Response to the Notification of Defective Response" filed in the United States Patent and Trademark Office (USPTO) on 06 March 2006.

BACKGROUND

On 11 July 2003, applicants filed international application PCT/US03/21611, which claimed priority of an earlier U.S. application filed 11 July 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 11 January 2005.

On 11 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee. These papers were assigned Application No. 10/521,063.

On 15 August 2005, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 25 August 2005, applicant filed the response to the Notification of Missing Requirements along with a declaration executed under PCT Rule 4.17. The declaration did not identify the application to which it was directed. The \$65 surcharge for filing the declaration after the thirty month period was paid.

On 7 February 2006, a Notification of Defective Response was mailed to applicant indicating that the declaration did not identify the application to which it was directed.

On 6 March 2006, applicant filed the instant petition along with a copy of the earlier filed declaration, which had been altered to identify the U.S. application.

DISCUSSION

The declaration submitted on 25 August 2005 did not identify the application to which it was directed. The Notification of Defective Response issued on 07 February 2006 advised applicant of the deficiency in the declaration.

The declaration submitted on 06 March 2006 is unacceptable because it contains an alteration. The declaration submitted on 06 March 2006 is identical to the declaration submitted on 25 August 2005 with the following alteration: "U.S. App. No. 10/521,063 corr. To PCT/US03/21611 filed 07/11/03". This is not responsive to the Notification of Defective Response.

The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

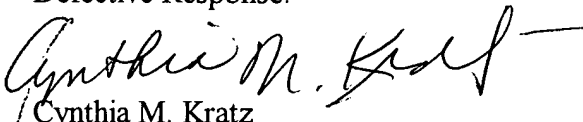
The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Thus, the declaration is unacceptable and is not a proper response. Furthermore, the time limit under the Notification of Defective Response has expired. The application is abandoned.

CONCLUSION

The declaration of inventors submitted by applicants on 06 March 2006 is unacceptable and is not a proper reply to the Notification of Defective Response.

The application is being forwarded to the United States Designated/Elected Office for issuance of a Notification of Abandonment for failure to file a proper reply to the Notification of Defective Response.


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